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**UNITED STATES DISTRICT COURT**  
4  
**DISTRICT OF NEVADA**  
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6 \_\_\_\_\_ )  
7 UNITED STATES OF AMERICA, )  
8 Plaintiff, )  
9 vs. )  
10 RAFAEL ARIAS, )  
11 Defendant. )  
12 \_\_\_\_\_ )

3:10-cr-0089-RCJ-VCP

**ORDER**

13 On October 24, 2011, the Court sentenced Defendant Rafael Arias to 220 months of  
14 imprisonment on Count 2 of the Second Superseding Indictment for distribution of a controlled  
15 substance. Defendant and the Government have filed a joint stipulation asking the Court to  
16 reduce Defendant's sentence to 173 months of imprisonment under 18 U.S.C. § 3582(c)(2) and  
17 Amendment 782 to U.S.S.G. § 1B1.10(d) (ECF No. 163). The Probation Office has  
18 recommended denying the motion because Defendant's behavior while in custody indicates he  
19 would pose a threat to the safety of the public if released.

20 A district court has discretion in applying a sentence reduction based on a retroactive  
21 amendment to the U.S. Sentencing Guidelines. *United States v. Chaney*, 581 F.3d 1123, 1125  
22 (9th Cir. 2009). “[I]n making its determination, the court ‘shall consider the nature and  
23 seriousness of the danger to any person or the community that may be posed by a reduction in  
24 the defendant’s term of imprisonment’ and ‘may consider post-sentencing conduct of the

1 defendant that occurred after imposition of the original term of imprisonment.”” *United States v.*  
2 *Lightfoot*, 626 F.3d 1092, 1096 (quoting *Chaney*, 581 F.3d at 1126) (footnotes omitted). In  
3 *Lightfoot* itself, the Court of Appeals upheld a district court’s denial of a sentence reduction  
4 based on a record showing “insolence to custodial staff, fighting, threatening a staff member,  
5 threatening bodily harm, and refusing to work.” *Id.*

6 The Court finds that a sentence reduction is not appropriate in this case. Defendant’s  
7 disciplinary log indicates he has been disciplined for multiple infractions, including being absent  
8 from an assignment, using drugs and alcohol, refusing drug or alcohol tests, refusing to obey an  
9 order, and threatening bodily harm. The Probation Office has concluded that Defendant  
10 continues to pose a threat to the public’s safety and his own welfare. Based on Defendant’s post-  
11 sentence conduct and the ongoing threat he poses to public safety, the Court denies the request  
12 for a sentence reduction.

13 CONCLUSION

14 IT IS HEREBY ORDERED that the Motion for a Sentence Reduction (ECF No. 163) is  
15 DENIED.

16 IT IS SO ORDERED.

17 Dated: This 26<sup>th</sup> day of January, 2016.

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20 ROBERT C. JONES  
21 United States District Judge  
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